HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1744 OF 2003

Afrin Mahabubkhan Pathan & Anr. ..Petitioners.

Versus.

Mahabub Yasinkhan Pathan & Ors. ..Respondents.

Mr.T.D.Deshmukh,advocate for the Petitioners.

Mr.N.N.Gavankar with Mr.Arfan Sait, advocate for Respondent No.1.

Mr. D.P.Adsule, APP for State.

CORAM: V.M.KANADE,J

DATE: MARCH 16, 2005.

P.C.

1. Heard the learned counsel for the petitioners and respondent and the learned APP for the State.

2. Petitioners are challenging the order passed by the Sessions Court reducing the amount of maintenance granted by the Trial Court from Rs.1,000/- to Rs.500/- per month. The learned counsel appearing on behalf of the respondent No.1 submits that since respondent did not enter into witness box, adverse inference has been drawn against him. He submits that the respondent is willing to deposit entire amount which is due and payable at the rate of

Rs.500/- per month by way of an interim measure and to show his bonafide. He submits that order of Sessions Court be set aside. The learned counsel for the petitioner submits that the the husband has not deposited arrears and if the arrears are deposited within a period of 8 weeks, matter be remanded to the Sessions Court. In view of this, Judgment and order passed by the Sessions Court be set aside. The matter is remanded to the Sessions Court. All questions which were raised in Sessions Court are kept open. The respondent husband to deposit entire arrears at the rate of Rs.500/- per month within a period of 8 weeks.

3. Criminal Writ Petition is disposed of in the above terms.

(V.M.KANADE,J)